N° 12

The Judge's Authority OR CONSTITUTION:

A

SERMON

Preached in the Cathedral Church of S^t. *Peter* in *York*, upon Monday the 7th day of *March* 16$\frac{69}{70}$, at the Aſsizes holden for that County before the Right Honourable Baron *Littleton*;

The Right Worſhipfull Sr *Philip Monckton* Knight being High-Sheriff of *Yorkſhire*.

By *James Johnſon* Bachelour in Divinity, and Fellow of *Sidney-Suſſex Colledge* in *Cambridge*.

Credant qui volunt, malle me legendo, quam legenda diſtando, laborare. S. Aug. de Trinit. l. 3. in Procem.

CAMBRIDGE,

Printed by *John Hayes*, Printer to the Univerſity, for *Samuel Simpſon* Bookſeller in *Cambridge*, 1670.

TO THE
Highly and worthily Honoured
Sr PHILIP MONCKTON
Knight, High Sheriff of
YORKSHIRE.

HONOURED SIR,

TO make a trivial Apology for publiſhing the following Sermons, would be as idle, as themſelves in this ſcribling age to ſome may ſeem ſuperfluous. Thoſe uſual reaſons of friends intreaties, and deſired Copies might be as juſtly alleadged by me, as they are commonly by others; but theſe cannot ſo far prevail, as your commands, no longer now to be diſputed, much leſs denied.

Sir, *Your word carries Authority with it not*

onely ad prælium, ſed ad prælum, *in ſubmiſsion to which (though I exchange charitable ears for critical eyes) I rather chooſe to expoſe my ſelf to the cenſure of others, then become guilty of any diſreſpects to your ſelf.*

Mihi nunquã placuit cuiquã illuſtri viro, & tantâ, quantâ es ipſe ſublimitate conſpicuo, præſertim non ocioſâ dignitate jam fruenti, ſed adhuc publicis negotiis, eiſdémq; militaribus occupato, aliquid meorum opuſculorum legendum impingere, &c. *S. Aug. de nup. & concupiſ. ad Valerium*, l. 1. c. 2.

And though the meanneſs of theſe diſcourſes may a little impeach the judgement of you the Approver, and not a little ſhew the inabilities of me the Compoſer, yet they preſume to preſent themſelves, being not onely ennobled by your repeated commands, but emboldned by your readineſs to receive them into that Patronage and protection, they cannot more confidently implore, or better expect then from your ſelf, who have lately ſo eminently appeared, and ſtill make it your buſineſs to dethrone thoſe Epidemical and reigning ſins they decry, and to uphold the forſaken Juſtice they plead for and maintain. Whilſt others enjoy their places for private advantage, you freely conferring your Offices, make uſe of yours for the Common good, in laying down whereof, you may avow as Nerva (*in a caſe not much unlike*) *did,* ſe nihil feciſſe, quò minùs poſsit, imperio

rio depositò, privatus tutò vivere, *with so much integrity have you demeaned your self in your place, holding on (like a* Cato *or* Fabricius*) in the course of Justice, notwithstanding all the difficulties did occurre.*

Macte ergò sis virtute tuâ, præstantissime Philippe, *never to find what another good* Philip *of the last Age, to his great grief* [a] *did, any thing too hard for you, but continue so prosperous a Patriot in your countrey, that no* [b] Empson *or* Dudley *may be able to stand before you, and that by the faithfull discharge of those great Trusts reposed in you, you may if possibly exceed the renown of your noble* [c] *Ancestours.*

And as from his late Majesty of glorious memory, you had the [d] *sword of Honour, as an Ensign or Trophy of your valour,* [e] *early brandished over your undaunted head, so have you by his present Majesty this addition,* viz. [f] *both swords Civil and Military, put into your hands, as a farther marke of his Royal Grace and Favour, for your former Loyalty, and signal Services. And*

[a] Old Adam too hard for young Melancthon.

[b] Two night-sprung mushrums that sucked the earths fatness from far better plants than themselves, growing up in *Hen.* the 7th time, and cut down by *Hen.* the 8th. *Speed*, p. 762, 766.

[c] S[r] *Philip*, and S[r] *Francis*, Grand-father, and Father, & the present S[r] *Philip*, all sequestred Knights in one house at the same time.

[d] Knighted at Newcastle for eminent service done against the Scots, 1644.

[e] *Togâ Academicâ relictâ Miles evasit.*

[f] *Philippus ex utroque.*

[g] *—Vejanius armis Herculis ad poſtem fixis latet abditus agro.* Horat.

And though you may now with [g] Vejanius, *juſtly hang up your armour, and betake your ſelf to reſt,* Tanquam miles emeritus, *yet to the joy of your Countrey, are you ſtill employed to ſerve your King and them, doing* worthily *in* Ephratah, *and being* famous in Bethlehem.

Sir, *to enumerate particulars were more fit for a Volume than an Epiſtle, yet ſhould my pages ſwell in that kind, I need not fear the imputation of the* Delphick *Oracle, in the caſe of your name-ſake of* Macedon, nimis Φιλιππίζειν, *for all is ſo well known in your own County, the very mention of your Name is enough to bring them to remembrance; amongſt which the grand and publick affair (fit onely for ſo publick a ſpirit as your own) now in hand deſerves not the leaſt commendation.*

Exo. 32. 20. [h] On *Perkin Warbeck* (who following the ſteps of *Lambert Symnel*) was another cheat, that then alſo abuſed the people.

Be not diſmayed, Great Sr, if a Golden Calf *be not ſo ſoon broken, or burned, as once it was. New upſtart Idols (as our* Henry *the ſeventh upon another* [h] *occaſion ſaid) were always God Almightie's vexation; and ſo are they his people's too: but yet when zeal and*

power

power unite againſt them, they cannot long be idolized. A Golden Eagle was once obſerved to fall down at the approach of a Noble Philip, *and ſtill* Magna eſt veritas, & prævalebit: *which that it ſpeedily may, I with the joynt ſuffrages of innumerable more (both injured and others) of our Countrey men, do congratulate its valorous Champion, and cordially wiſh an event proportionable to the merits of your Cauſe, and an iſſue as ſucceſsfull as your deſigns are juſt and honourable: ſo prays he whoſe ambition is to be*

Ld Verul. in vit. Hen. 7.

Μεγάλου ἐστὶν ἀθλητοῦ δέρεσθαι, καὶ νικᾶν. *Ignat. Epiſt. ad Polyc.*

Sid. Suſſ. Coll.
Camb. Octob. 20.
1670.

Sir
The meaneſt of
Your Votaries,
J. J.

Deut. 16. 18, 19.

Judges and Officers ſhalt thou make thee in all thy gates which the Lord thy God giveth thee throughout thy tribes, and they ſhall judge the people with juſt judgement.

Thou ſhalt not wreſt judgement, thou ſhalt not reſpect perſons, neither take a gift; for a gift doth blind the eyes of the wiſe, and and pervert the words of the righteous.

IT were to be wiſhed, that the dictates of *reaſon* and *religion*, that the rules of *juſtice* and *equity*, that the laws of *Chriſtianity* and *piety*, were ſo generally *entertained*, and cordially *imbraced*, that the voice of *oppreſsion* and *injuſtice*, of *deceit* and *wickedneſs*, of *fraud* and *violence*, were not ſo much as *heard* amongſt us; then would *primitive* innocency, and *neglected* juſtice (that divine *Aſtræa* that hath left the earth ſo long) return, and once more take place amongſt us; then would the world become

as a garden of *Eden*, no forbidden fruit of what belongs not to us, would then be *touched*, nor would there be any serpent there, to *envy* at, or *tempt* us from our happiness: then might every one with no less *satiety* than *content*, *eat the fruit of his own vine, and sit under his own fig-tree*; then would each man's possession by a secure and peaceable enjoyment thereof be doubly blessed unto him. *The Wolf might then* (as the Prophet *Isaiah* speaks)
Ch. 11. *dwell with the Lamb, & the Leopard lie down with the Kid, and the Calf, and the young Lion, and the fatling together, they should not hurt, nor destroy in all* God's *holy mountain*. But whilst in stead of this *divine* and *evangelical*, this *calm* and *serene*, *meek* and *innocent* temper, men (if so they may be called that cast off all reason and religion, and abandon natural justice and equity) become *brutish* and *savage*, *inhumane* and *ravenous*, the garden of *Eden* is turned into a *wilderness*, and men become serpents to each other;
Ch. 34. or as the same *Prophet* expresses it, *the wild beasts of the desert meet with the wild beasts of the island, satyres and vultures, tygers and dragons, viz.* men of cruelty and barbarity, of brutish and unnatural dispositions become possessours of it.

Βλέπετε τὺς κυνὰς τὺς ἐνεὺς, τὺς ὄφεις, τὺς συρομένους, τὰ φιλόδορα δρακόντια, τὺς ἀσπίδας, τὺς βασιλίσκους, τὺς σκορπίους, οὗτοι γάρ εἰσι θῶες ἀλωποὶ, ἀνθρωπόμιμοι πίθηκοι, Ignat. Epist. ad Antioch. si sit Ignat.

And now man that is by nature ζῶον πολιτικὸν, (as the *Philosopher* terms him) a gentle and sociable creature, made for converse & society, becomes degenerate, and overthrows those very foundations that

that should uphold it: they that should be *helps* and *supporters*, become *supplanters* and *underminers* of each other: instead of *Homo homini Deus*, it is *Homo homini Lupus*, and men live together, as though they were made to *bite* and *devour*, to *ruine* and *destroy* one another. And as being impatient of all restraint and controule, the excentrick and irregular passions of such degenerate minds become so furious and headstrong, as that which was intended for their restraint, does but irritate, and stir them up, and make them oftentimes the more outragious, like the troubled *sea* (to which such like men are by the *Prophet* compared) they are continnally *casting forth mire and dirt*; and as the waves thereof contemne all bounds, and in anger foam, and clash, and break themselves against the rocks that keep them in, so these mens restless and raging passions overflow all banks that should bound them, and in contempt spit defiance in the face of laws, and lawgivers. And now when mens passions become as *wild* and *boundless*, as they are otherwise *lawless* and *unaccountable*, 'tis time for the law to take courage to it self, and double its strength to chastise the boldness of such offenders. 'tis but equal that that against which they offend, should become the instrument of their punishment. Thus by reason of offenders, laws and the execution of them become as *necessary*, as they would otherwise be *useless*, and the Magistrates power to preserve every one in his right, and defend him from the violence of another, is as *requisite* as the prosti-

Εἰσὶ κύνες ἐνεοὶ, οὐ δυνάμενοι ὑλάκτειν, λυσσῶντες, λαθροδῆκται, οὓς φυλάσσεσθαι χρή Ignat. Epist. ad Ephesios.

--*magnoq; irarum fluctuat æstu*, Virg.

tution of laws to every extravagant and unbridled humour would be intolerably *pernicious* and *miſchievous*; to prevent the ſad conſequences, and inſufferable enormities whereof, *Judges* and overſeers of the law are conſtituted and appointed for the ſafety and ſecurity of thoſe that live under its protection; that there may be a due and right adminiſtration of juſtice, and that the people may be judged *with juſt judgement*, without *wreſting*, or *diſtorting* that which is the common rule of every one's right; without *favouring* or *reſpecting* any perſons, upon whom the law looks with an equal and impartial eye; without *ſelling*, or *taking gifts* for that which the law freely diſpenſes and imparts to all. This is the *end* and *deſign* of the law; this is the *duty* and *employment* of Judges and Officers of Juſtice; this is the *work* and *buſineſs* of this time; and this accordingly is the *injunction* and *command* of *Moſes* here in his charge to, or concerning the Judges. *Judges and Officers ſhalt thou make thee in all thy gates, which the Lord thy God giveth thee, and they ſhall judge the people with juſt judgement*, &c.

In which words here is

1. *Judicum inſtitutio*, the Judge's authority, or conſtitution, *Judges and Officers ſhalt thou make thee.*

2. *Judicii executio*, the Judge's Office and employment, *viz.* the execution of Juſtice, *they ſhall judge the people.*

3. *Ju-*

3. *Judicandi modus*, the manner how that execution of Juſtice is to be performed,

1. Poſitively, *with juſt judgement.*

2. Negatively
   1. Without perverting of equity, *Thou ſhalt not wreſt judgement.*
   2. Without partiality, *Thou ſhalt not reſpect perſons.*
   3. Without bribery, *Thou ſhalt not take a gift*;

And that enforced by a twofold reaſon,

Firſt, becauſe *it blinds the eyes of the wiſe*;

And *ſecondly*, as a conſequent of that, becauſe it *perverts the words* (or, as ſome read it the matters) *of the righteous.*

The Charge conſiſts of many parts, each of which might be directed to the ſeveral perſons concerned in the adminiſtration of Juſtice.

To the *Head* and *Chief* of which, that ſits in *Moſes*'s chair to hear and determine, judge and paſs ſentence, to *him* that gives a charge to others, in the firſt place is *a Charge* given, *Thou ſhalt judge the people with juſt judgement.*

To *him* that prepares and makes ready the cauſe for the Judge's hearing, the *Advocate* or *Pleader* to whoſe care and truſt the ſtate and ſuit of the *Client* is committed, when he ſpeaks in a cauſe, there's a caveat for him, *Thou ſhalt not wreſt judgement.*

To *him* that's returned to ſerve as a *ſworn* man or *Juror*, in matters of grand or petty inqueſt; or that is in any *office* of truſt, or *place* of ſervice in, or about the *Courts*, ſo as it may come within the verge

verge of his power to do a ſuitor a courteſie, or diſpleaſure, is the next injunction, *Thou ſhalt not reſpect perſons.*

Laſtly, to *him* that's bound over to proſecute for the King in a criminal cauſe; or that offers himſelf as a voluntary *informer* upon ſome penal *ſtatute*, or is brought in by proceſs to give publick teſtimony upon *Oath*; or comes of good or ill will to ſpeak a *good* word for, or a *contrary* one againſt any perſon, is the laſt prohibition, *Take not a gift*; when he opens his mouth to give witneſs, he muſt not open his hand to receive a gift, *for a gift doth pervert the words of the righteous.*

But becauſe the ſeveral corruptions of juſtice do often unite in the *ſame perſons*, and as the *Philoſopher* obſerves of moral vertues are concatenated and linked together in the *ſame ſubject*, that the *ſame men Proteus*-like put on ſeveral ſhapes, that they rather endeavour an engroſſing of all abuſes, than a monopoly of any particular one to themſelves, and that by ſuch a complication of them, they (as Saint *James* ſpeaks in another caſe) *in many things offend all*, I ſhall not be ſo injurious to the words, as to impriſon them in ſuch narrow limits, and confine that to ſome ſort of perſons, to which mens general practiſes have unhappily given a greater extent and latitude.

A prima hujus versûs dictione quintam hujus libri ſectionem incipiunt Hebræi, quam vocant שופטים *Vatab. in l.*

The *firſt* thing that preſents it ſelf to our view, is the Judge's authority or conſtitution; *Judges and Officers ſhalt thou make thee.* *Moſes* in the precedent verſes had given charge concerning *religious*

ous matters, he now deſcends to *civil affairs*; as before he had taken care for the eſtabliſhment of *piety* towards *God*, ſo here he endeavours the promotion of *juſtice* towards *men*: the affairs both of *Church* and *State* fall under the *Magiſtrate*'s care and inſpection, he is *cuſtos utriuſque tabulæ*; both the Tables of the Law were given *Moſes* to be kept, and though he once in anger broke them, yet now in zeal he takes care for reſtoring and preſerving of them. What he here gives in charge & command to others, was the diſcharging of that which himſelf undertook, like *Gideon* to his followers, or *Cæſar* to his ſouldiers, he bids them do no more, than what he had done before them. At firſt indeed he judged the people by himſelf, but their *contentions* growing as *numerous* as their *perſons*, and their ſtrifes as *endleſs*, as they were *unreaſonable*, that ſoon became a burden too heavy for his ſhoulders alone, *ch.* 1. 12. *How can I my ſelf alone bear your cumbrance, and your burden, and your ſtrife?* and therefore following *Jethro* his father in law's advice, he chooſes out among the people able men to perform that task with him, that they might *judge of the ſmaller matters, whilſt onely the harder cauſes were brought unto him*; and what he then commanded, he again at this ſecond promulgation of the law charges upon them, thereby perpetuating his care to ſucceſſive generations, whom he appoints to make *Judges and Officers over them.* Exod. 18. 25.

By theſe two names, *Judges and Officers*, ſome think the ſame perſons to be meant, ſo *à Lapide*, *Judices*

Judices & Magistratus constitues, i. e. *præfectos, puta viros sapientes qui quasi Magistri & Magistratus præsint juri dicendo, iidem ergò sunt Judices & Magistratus*. The words indeed שפטים & שטרים here used, are often placed together, and so by some taken for *synonymous* terms; but *Pagnin* gives a caution against this, *Cave* (says he) *nè cum plerisque interpretum, utramque vocem confundas*; and for the distinction of them, makes mention of several sorts of *Judges* or *Magistrates* among the *Jews*.

First, זקנים *Seniours* or *Elders*.

Secondly, שופטים *Judges*.

Thirdly, נוגשים *Exactours* (who exacted what the law required.

Fourthly, שוטרים *Prefects* or *Masters*, being the same which is here rendred *Officers*, and is distinguished from *Judges*, because *Judex judicabat, Præfectus exequebatur quod judicatum erat*, the *Judge* passes sentence or determines, the *Officer* puts in execution what is so sentenced or determined. The *Septuagint* renders it, Κριτὰς καὶ γραμματοεισαγωγεὶς ποιήσεις σεαυτῷ, *Judges* and *Magistrates shalt thou make thee*, with which agrees the *Chaldee* paraphrase, and *vulgar* latine, but according to the *Syriac* version it is, *Judges* and *Scribes*, *Wolphius* renders it *Apparitores*, *Junius* and *Tremellius*, *Moderatores*, some translate it *Decanos*, others *Duces*, *Officiales*, *Ministros Magistratuum*, or *Castigatores*; *Apparitors*, *Moderators*, *Officials*, *Captains*, *Leaders*, *Virgers*, or *Correctours*, according to the last

Item Executores Græcis πράκτορες *sæpè* ἐκβιασταὶ *coactores. Latè se diffundebat eorum munus, ut non tantum ad causas injudicio decisas spectaret, sed magistratûs nomine alia populo intimarent*, Jos. 1. 10, 11. v. Crit. M.P.

laſt of which *Paulus Fagius* thus diſtinguiſhes them, שופטים *ſunt Judices, qui determinant cauſam, ſive judicium,* שטרים *ſunt qui dominantur populo, & exequuntur mandata eorum, ſcilicet Judicum, cum virgâ & flagello*; their office being much of the ſame nature with that of the *Lictors* among the *Romans*, and ſo rendred *caſtigatores*, thoſe that chaſtiſe or correct the people, agreeable with the third ſort of *Magiſtrates* among the *Jews* called נוגשים *Exactours*, to which happily that of the Prophet *Iſaiah* alludes, *I will make thine Officers peace, and thine Exactours righteouſneſs.* Iſa. 60. 17.

Or by *Judges* and *Officers* may be diſtinguiſhed the *Supreme Judge* from the reſt, either in the great *Councel* or *Sanhedrim* of the *Jews* conſiſting of 70 *Elders*, or 71, or ſometimes 72 if the *High Prieſt* were there, in which he that ſat chief, in the place of *Moſes* was called נשיא *Præfectus*, and מובלא *Excellens*; or elſe in the leſs *Councel* conſiſting of 23 which were in the ſmaller cities, except thoſe that had not 120 men in them, and then onely three *Judges* were placed there. Or theſe *Officers* might be thoſe that attended at thoſe *Councels* to be taught and inſtructed in their proceedings, (called, תלמידי חכמים ſcholars of the wiſemen) like young ſtudents at the law that come to hear the *Judge's* ſentence in doubtfull and controverted caſes, or as St. *Paul* that ſat at the feet of *Gamaliel* to be inſtructed in the law; So *Grotius* upon the words, *Ad pedes ſedebant diſcipuli, ut ipſo uſu jus addiſcerent, & in morientium aut* *Godwin l. 3. c. 8. Edit. Lat.*

decrepitorum locum ſurrogarentur, that ſo thoſe who ſat at their *feet* to learn the law, might be ſo skilfull therein that they might at length be made *Heads* or *Governours*.

Or perhaps theſe *Officers* were onely thoſe that waited on thoſe *Courts*, as *preco*'s or *cryers*, *ſcribes* or *notaries*; *Aderant* (as the fore-cited Authour adds) *duo ſcribæ, præcones totidem*, &c. of which *ſcribes* or *notaries*, one ſtood at the right hand to write the ſentence of *abſolution*, and what was ſpoken in defence of the party, and the other at the left hand to write the ſentence of *condemnation*, and the objections made againſt him; to which,
Mat. 25. 33. ſome think, *Chriſt* ſpeaking of the laſt Judgement, had reference, *he ſhall ſet the ſheep on the right hand, but the goats on the left.*

Or *laſtly*, theſe *Officers* moſt probably were thoſe that were in manner of *Sheriffs*, who were preſent to execute what the *Judge* determined, whence they carried up and down their ſtaves and whips, as the *Conſuls* at *Rome* had their rods and axes carried before them, for the more ready execution of juſtice. To this ſeems to allude that of Saint
Ch. 12. 58. *Luke*, *When thou goeſt with thine adverſary to the Magiſtrate, as thou art in the way, give diligence that thou mayeſt be delivered from him, leſt he hale thee to the Judge, and the Judge deliver thee to the Officer.*

But however theſe two may differ as to their *kind* and *dignity*, their *ſubordination* or *dependance* upon each other, yet they agree as to their common

mon *aim* and *end*, their *deſign* and *inſtitution*, in promoting *juſtice*, and executing *Judgement*. Theſe are the *powers* which are ordained of *God*, and *are* (as the *Apoſtle* ſpeaks) *his Miniſters* Rom. 13.6. *continually attending upon this very thing*. The Magiſtrate's power hath the ſtamp of divine authority impreſſed on it, (and that more firmly, than *Phidias*'s image was on *Minerva*'s ſtatue) and therefore *they that reſiſt this power, reſiſt the Ordinance of God*; and of ſuch there are a generation in the world, impeaching *Magiſtracy* with the titles of *tyranny* and *uſurpation*, and branding all *juſtice* with the names of *cruelty* and *oppreſsion*; ſuch there were in the *Apoſtle*'s time: Saint *Peter* makes men- 2 Ep. 2.10. tion of ſome, who *deſpiſe government, and are not afraid to ſpeak evil of dignities*; and Saint *Jude* of Jude 8. ſuch whom he calls ἐνυπνιαζόμενοι, *filthy dreamers, who deſpiſe dominion*. Such were the *Manichees* of old, who conceived that Magiſtracy was a conſtitution of their bad god. Of the like ſtamp were the *Weigelians* and *Swenkfeldians* of later years; and ſuch 'tis to be feared, if we may gueſs by their practiſes, are too many amongſt us at this day, whoſe principles (durſt they ſo far vent themſelves) would animate them not onely to pluck the *ſword* of the *Spirit*, (the word of God) out of the *mouthes* of *Miniſters*, but the *ſword* of *Juſtice* too (had it not too ſharp an edge for them) out of the *hand* of the *Magiſtrate*, that ſo their licentiouſneſs might eſcape the puniſhment of the *latter*, as well as the reproof of the *former*. Thus it was with thoſe

famous (or rather *infamous*) leading rebels, *Corah, Dathan & Abiram*, who ſet themſelves up, not onely againſt *Aaron* the *Prieſt*, but againſt *Moſes* the *Magiſtrate*, and thought both of them took too much upon them, to lift themſelves *above the congregation of the Lord*, and therefore they both envied *Aaron* his *Prieſthood*, and *Moſes* his *Authority*, they would neither hear *Aaron*'s bells, nor kiſs *Moſes*'s *rod*, neither give ear to the *one* nor obedience to the *other*. But let theſe *ſpurn* at this authority in their *pride*, or *reject* it in their *folly*, yet it is the *power* of *God*, and the *ordinance* of *God*. *Governours* (ſays the *Apoſtle*) *are ſent by God*; this is their commiſſion; *By me Kings reign, and Princes decree juſtice: By me Princes rule, and Nobles, even all the Judges of the earth.* The Magiſtrate is, Θεοῦ διάκονος, *the Miniſter of God* (ſays Saint *Paul*) *a revenger to execute wrath upon him that doeth evil.*

1 Pet. 2. 14.

Prov. 8. 15.

Rom. 13. 4.

It is the divine authority which makes that *juſtice* in the Magiſtrate, which would be *cruelty* and *murder* in another, and who ſhall tax his obedience to that authority to be criminal or faulty? The divine providence hath not intruſted the Sword of Juſtice in every private man's hand; if it were ſo placed, how ſoon would each man, (like *Cain*) upon any diſtaſt ſheath it in his Brothers bowels, and make it drunk with the blood of revenge? If every one might be the *righter* of himſelf, and *revenger* of his own wrongs, the world would ſoon become an *Aceldama*, a field of blood; and

and therefore God, who hath prohibited all private Chriſtians (who are naturally partial in their own cauſes) to avenge themſelves, hath authorized the publick Magiſtrate with his Commiſſion to be the avenger of wrath, or (as Saint *Peter* ſpeaks) to be *for the puniſhment of evil doers, and for the praiſe of them that do well*: for this end are *Judges* and *Officers* conſtituted and appointed: *Judges and Officers ſhalt thou make thee, and they ſhall judge the people*; which is the *ſecond* thing propounded.

2. *Judicii executio*, the execution of Judgement. The original word שפט to Judge, ſignifies both *jus dicere* and *exequi*, to determine what's right, and to execute what's ſo determined; the *firſt* is a decree of Judgement, the *ſecond* is the execution of that decree; the *firſt* is an act of skill or underſtanding, the *ſecond* an act of courage and reſolution; both which are requiſite in him that judges: the act of judging ſuppoſes ability and skill in him that undertakes it; hence Judges were anciently called *Cognitores*, and *cognoſcere* in approved Authours is as much as to do the office of a Judge, as *Seneca*, *ſi judicas cognoſce*; 'tis a neceſſary qualification to be able to know the truth, that ſo in difficult and intricate caſes *covered* with darkneſs and obſcurity, *perplexed* with windings and turnings, *overlaid* with cunning and crafty conveyances, they may *extricate* and *find* out that which would otherwiſe be loſt in a maze and labyrinth, ſet *free* and *deliver* that truth which otherwiſe would

Epiſc. nup. Linc.

Med. 2. 2. *Ignorantia judicis ſæpè fit calamitas innocentis.*

would be ſhackled and impriſoned; neceſſary to which is the *examination* of witneſſes, and *hearing* evidences, and *conſidering* allegations, and *weighing* circumſtances, and *putting in* croſs interrogatories, and *making* queries, and *raiſing* doubts to overweigh and out-balance the craft and ſubtilty of thoſe who of purpoſe involve the truth of things with falſhoods and deceits; all which as they are neceſſary to a right *determination*, ſo they are onely ſubſervient to a due *execution*; the other acts are lame and imperfect without this to compleat and finiſh them. This is that which adds life and ſtrength to the laws, without which, notwithſtanding all the other formalities, they would die and languiſh: by execution the Judge breaths life into them, and is therefore called by the *Philoſopher* δικαιον ἔμψυχον, and by ſome of the *Ancients* νομος ἔμψυχος, the living law; *Execution* of laws is as neceſſary as the *promulgation*, or *conſtitution* of them; God hath put a ſword into the Magiſtrate's hand for this end, and he expects he ſhould *not bear it in vain*; not bear it onely for *honour*, or *ſafety* to himſelf, but to ſtrike *fear* and *terrour* into offendours. *Rulers are not a terrour to good works, but for evil*; not to bear it as a badge and enſigne of *authority*, but to draw it out as an inſtrument of *juſtice* and *ſeverity*. Where there wants *execution*, there wants not *tranſgreſſion*, *impunity* encourages to all *iniquity*, not to light *ſlips* onely, but to groſs *enormities*, ſo that according to the *Rabinical* proverb, בית דין צריך לחטאים *tranſgreſſours need a Seſſion-*

In animis hominum multæ latebræ.

Rom. 13. 4.

v. 3.

Maxima peccandi illecebra eſt impunitatis ſpes.

Seſsion-houſe, the laws ſuffice not to keep men in due bounds, the Judge muſt neceſſarily exert his power to execute the laws; and he that does not this, at the ſame time both robs the law of that defence which ſhould ſecure it, and himſelf of that innocency which ſhould protect him; for he that puniſhes not thoſe faults which are in offendours, thereby transferrs them upon himſelf; the guilt is devolved upon his head, who by puniſhing it in *ſome* ſhould have prevented it in *others*. To which purpoſe is that ſtory of *Lewis* King of *France*, "who being at his devotions, was ſolicited by a "Courtier to pardon a malefactour, that was found "guilty of death, the King without any more ado, "made a ſign with his head, that he granted his "ſuit; but preſently after, chancing to read a "verſe of the 106. *Pſalm*, containing theſe words, "*Bleſſed are they that keep judgement, and he that* "*doth righteouſneſs at all times*; he bid call him "again to whom he had granted the pardon, and "diſanulled it with this memorable *Apophthegm*, "*viz. The Prince that can puniſh a fault, and doth not* "*puniſh it, is no leſs guilty before God, than the offen-* "*der himſelf*. According to which was the wiſe anſwer of a certain fool or Jeſter made to a *King* of the ſame land, who found fault with a *Courtier* "that had begged pardon of him, ſaying that this "was the third murder he had committed, nay "*King*, quoth the Jeſter, this ſuiter hath com- "mitted but *one* of the murders, it is thou that art "guilty of the *ſecond* and *third*, for if thou hadſt not

In ſeveritate judicis, ſita eſt legum auctoritas.

Qui parcit malis lædit bonos. Parcendo ſæcit.

v. 3.

Camerar. p. 398.

Camer. p. 400.

"not granted him pardon for the *first*, he had not "lived to have done any *more*. It was his first pardon which promised him so much *security*, as encouraged him to commit the like *enormity*. Thus according to that principlein moral policy,an *ill executour* of the laws is worse in a state, than a *great transgressour* of them. It is the non-execution of laws that is the cause of so frequent breach of them, for those, the neglects whereof are the severelieſt *punished*, are the least *violated*, else why are *murders* and *robberies* (though too oft, yet) more rarely committed, than those common sins of *drunkenness*, *whoredom* and the like, but that the laws are put in execution against the *former*, but scarce, or not at all against the *latter*, such a connivence at misdemeanours makes offendours,and (as the *Royal Psalmist* speaks) *frames mischief by a law*; this is rather to stifle and suppress the law, than to execute it, and to make it partial in its proceedings, than to *judge according to just judgement*, which is the *third* thing proposed.

3. *Judicandi modus* the manner of its execution, and that

1. *Positively*, משפט צדק *judicio justitiæ*, with the judgement of justice, *summâ æquitate* (as *Vatablus*) or as the *Syriac* version may be rendred, *that he may teach the people the judgement of equity*. That is just or equitable, which is regulated according to the law, proportioning punishments to the nature of the offence, neither giving *more* nor *less* than that deserves; to punish *less*, gives too much en-

encouragement to others to offend, to punish *more*, gives too great cause of complaint of injustice to the offendour, for innocency it self suffers so far as any is punished beyond the demerits of the offence. The *Romans* had their fasces or bundle of rods with an axe in the midst to signifie the equity of the Magistrates in punishing some onely with a *rod*, others with an *axe*, the one for *petty*, the other for *capital* crimes; and the *Poet* in the Greek *Epigram* taught the silver axe of justice carried before the said *Roman* Magistrates to proclaim,

Ἂν μὲν ἀλιτραίνης πελέκων φαέεσσι δοκεύες,
Ἂν δὲ σαοφρονέης, Ἄργυρος εἰμι μόνον.

If thou be an offender, I am an axe to punish thee; but if innocent, I am onely silver not to affright thee.

When judgement is justly executed, there is no fear of punishment to the *innocent*, nor flattering hopes of escaping justice to the *delinquent*; when *Judgement* is thus laid to the *line*, and *righteousness* to the *plummet*, when every fact is laid to the rule of the law, and sentenced according to its *rectitude*, or *obliquity* to it, when every action is weighed in the balance of justice, and receives sentence according as it is *found wanting*, then the people are judged with *just Judgement*.

Justitia jus suum cuique tribuit.

Camer. p. 400.

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This is that, which is both the peoples *ſafety*, and the laws *ſecurity*, it is that which both *conveys* and *entails* a bleſſing upon a *State* or *Nation*; it is both *columna & corona reipublicæ*, a prop to make it firm in *it ſelf*, and a crown to render it glorious in the eyes of *others*; this is that which (as the *Pſalmiſt* ſpeaks) *when the foundations of the earth are out of courſe, upholds the pillars of it*; it is as the cement in a building to unite and hold together the ſeveral parts of it. *Jus & æquitas* (as the *Oratour* phraſes it) *ſunt vincula civitatum*: it is in the body politick, as joynts and ligaments, as nerves and ſinews in the body natural, by this is its ſtrength derived and preſerved, for *by righteouſneſs* (according to that of the wiſe man) *is a nation exalted*, and *by judgement is the Throne eſtabliſhed*. Juſtice and Judgement are ſuch inſeparable adjuncts of the Throne and Nations happineſs, that they who ſubvert and undermine the *one*, do thereby neceſſarily deſtroy and raze the very baſis and foundation of the *other*, and there can be no greater enemies to a *King* or *Kingdom*, than thoſe that by thus doing ſet themſelves againſt *both*, nor ſcarce can there be any ſadder ſymptoms of a declining and decaying nation, than when juſtice is thus *obſtructed*, and Judgement is *turned backward*. No wonder therefore that *Moſes* the King in *Jeſurun*, ſtrengthens his command concerning Judgement, with a threefold caution, that like a threefold cord it might not eaſily be broken, which is the *Negative* part of the injunction, *Thou ſhalt not wreſt Judge-*

Remotâ juſtitiâ, quid ſunt regna, niſi magna latrocinia.

Judgement, nor reſpect perſons, nor take a gift. All which prohibitions were ſo neceſſary to be obſerved in Judgement, that, as *Simeon de Muis* notes from ſome of the *Rabbins*, when *Solomon* aſcended the ſeveral ſteps of his *Throne* (mentioned, 1 *Kings* 10. 19.) there was a *præco* or *herald* appointed to cry when he entred upon the *firſt* ſtep לא־תטה משפט *Thou ſhalt not wreſt Judgement*; when he aſcended upon the *ſecond*: לא תכיר פנים *Thou ſhalt not reſpect perſons*; when he aſcended upon the *third* לא תקח שחד *Thou ſhalt not take a gift.* *Rabbi de Cozi.*

The *firſt* prohibition is,

1. *Thou ſhalt not wreſt Judgement.* The *Septuagint* renders it, οὐκ ἐκκλινοῦσι κρίσιν, *they ſhall not decline Judgement*; ſo the *vulgar* Latine, *nec in alteram partem declinent*, לא־תצלי דין (as the *Chaldee* paraphraſe) *thou ſhalt not pervert*, or (according to the *Syriac*) *thou ſhalt not bend Judgement*, *nec prece, nec precio*, as *Lyra*. *Wreſting* of Judgement is here immediately oppoſed to *juſt* judgement, which ſeeing it is that which proceeds according to the ſtandard of juſtice, *viz.* the law, which is the rule of right and wrong, when that *rule* is *diſtorted*, then is *Judgement wreſted*; And to do this, as it is contrary to the *nature* of the law, ſo to the *office* of thoſe, to whoſe protection the law is committed. *Judices*, (as one deſcants on the word) are *juris indices*, they muſt *jus dicere*, as their name ſignifies, and *jus dare* too, as their office imports. The *Judge* is the laws *interpreter*, he *in loc.*

must not make it ſpeak, but what it means, to do otherwiſe is to make it act a part of *Jeſuitiſm*, to declare *one thing*, and by a mental reſervation to underſtand *another*. *Jus* wreſted is turned into *vis*, the letters tranſpoſed, and juſtice perverted; the *former* of which is not ſo *obvious*, as the *latter* is *pernicious*, for this does not onely *enervate* and *weaken* the law, but *thwarts* and *croſſes* the very end and deſign of it; it makes it *patronize* that which it chiefly *oppoſes* and *contradicts*, and under a pretence of *juſtice*, to do the greater *injuſtice* more plauſibly and ſecurely. This was one of thoſe great evils which *Solomon* ſaw under the ſun, *that in the place of judgement, wickedneſs was there, and in the place of righteouſneſs that iniquity was there*; This is ſo much the greater *iniquity*, by how much it ſhrowds it ſelf more cloſely under the covert and pretext of *equity*: *ſimulata æquitas, duplex iniquitas*. This is to make the ſword of Juſtice *turn* its edge, and do *execution* upon thoſe whom it ſhould *protect* and *defend*; it is to make the law inſtead of being an *hedge* of defence, become as ſo many *thorns* and *briars* to *rend* thoſe whom it ſhould *preſerve*; it is to convert a *medicine* into *poyſon*, to turn the *rod* into a *ſerpent*, to make that an *inſtrument* of *cruelty*, which is the *rule* of *equity*, and is ſo much the more *intollerable*, by how much it cuts off all the means and methods of *redreſs*.

Eccl. 3.16.

Scepters born by Kings, and the *Maces* of Magiſtrates are all ſtraight emblems, of that *juſtice* which

which is held forth by them; παραδοτική τις ἔστιν ἡ ῥάβδος, the Scepter carrieth a kind of inſtruction with it, the *ſtraightneſs* thereof ſhould be a memento to ſhun *crooked* and *perverted* judgement: he that *wreſts* the law, *crooks* the Kings Scepter, and falſifies that which more lively than his coin, bears his *Royal impreſs* on it; to do thus is to make the *Kings* laws (like the *Pope's Canons*) *plumbeas & cereas* (as one ſpeaks) waxen and leaden laws, to bend and bow this way or that, and (by perverting them beſides or contrary to their genuine ſence) to make them become guilty of the ſame ſolœciſm with that of the *Canoniſt*, *Statuimus*, id eſt, *abrogamus*, we command this, *that is*, we do the contrary.

And as Judgement is wreſted by perverting the *law*, ſo likewiſe by perverting thoſe *actions* of which the law takes cognizance; and this is too often done by *Furours* who give in a verdict *beſides* or *contrary* to the nature of the fact, or matter that's brought before them, as though a *verdict* had its name given by an *Antiphraſis*, like *Diogenes* his man, *manes à manendo*, becauſe he would oft be running away; ſo a *verdict* from *verum dicere*, becauſe they make it ſpeak the contrary.

This is done too by thoſe, whoſe profeſſion they think *obliges*, or at leaſt *allows* them to make the beſt they can of their *Clients*, and the worſt of their *adverſaries* cauſe, againſt whom upon ſome plauſible pretence they uſually run deſcant at plea-

pleaſure, perverting what is ſaid or done, either to make their matters *ill* when they are not, or elſe aggravating them to make them ſeem *worſe* than indeed they are; and thus *nimium altercando*, they are like that *Rhetorician* that could *mirificè res exiguas verbis amplificare*, wonderfully amplifie ſmall matters with great words, for which *Ageſilaus* thought he deſerved no more commendation, than the *ſhoemaker* that made *great* ſhoes for *little* feet: and though theſe may count it the glory of their profeſſion (as *Protagoras*, and the old Greek *Sophiſters* were wont to do) by *dexterity* of wit, and *volubility* of tongue τὸν ἥττω λόγον κρείττω ποιῆσι, to make the *worſe* ſide the *better*, yet a good *Oratour* as well as good man (which *Cicero* joyns together, *vir bonus dicendi peritus*) ſhould make uſe of both the one and the other, to *decry* injuſtice and *defend* equity, to *protect* innocency and *cruſh* oppreſſion, to *detect* fraud and *advance* truth, to *ſuccour* the diſtreſſed and *help* them to right that ſuffer wrong. They that make uſe of their *rhetorick* or *eloquence*, *reaſons* or *arguments for* or *againſt* any perſon ſhould not be as the *Roman* Advocates (of whom St. *Bern.* complains, *Hi ſunt qui docuerunt linguam ſuam grandia loqui*, &c. theſe are they that have taught their tongues to ſpeak lies, nimble-tongued againſt righteouſneſs, skilfull to defend falſhood, wiſe to do evil, eloquent to oppoſe the truth) but rather be as St. *Paul*, *able to do nothing againſt, but for the truth.*

De Conſid. l. 4. c. 2.

The famous Oratour Pericles (*when Advocate in* Greece) *from the principles of nature, ever before he pleaded a cauſe, entreated his gods that not a wo d ſhould fall from him beſides his cauſe.*

The

The *ſecond* prohibition is,

2. *Thou ſhalt not reſpect perſons*; though a *civil* reſpect of perſons be elſewhere commanded, yet a *judicial* one is here forbidden; though reſpect of perſons is due in *offices* of humanity, and *overtures* of love, yet in the *Gate*, in the *ſeat* of *Judicature*, לא תכיר פנים *Thou ſhalt not acknowledge*; or (as the *Syriac* verſion) *thou ſhalt not honour faces*. The *Septuagint* changes the perſon, οὐδὲ ἐπιγνώσονται πρόσωπον, *they ſhall not know a face, or perſon*. The *Greeks* uſually render it by προσωπολημψία, which word *non perſonam ſignificat ſed perſonæ attributa, & circumſtantias*, it is properly *verbum forenſe, & de judicibus propriè prædicatur*, as *Zanchy*. Reſpecting perſons is a ſin incident to thoſe who are converſant about matters of *judicature* and tranſactions of *law*, and ('tis to be feared) is as frequently *practiſed*, as 'tis ſeldom rightly *underſtood*; When *Furours* conſider not ſo much the *cauſe*, as the *perſons* betwixt whom it is depending, when *reſpect* to the *latter* ſways more than *equity* in the *former*; when the *verdict* ſpeaks the language of their *affection*, not of their *judgement*, and is the reſult of their *malice* or *prejudice*, not of their *knowledge* or *Conſcience*. When the authority of the Foreman (whom the reſt uſually follow as ſheep) or the *awe* of ſome great perſon, or *intereſt* of ſome relation, or *ſuggeſtion* from ſome friend, or *conſciouſneſs* of ſelf-guilt, or *hopes* of favour in the like caſe, *prevails* with any of them, more than the *juſtneſs* and *merits* of the cauſe it ſelf. When

in Eph. 6. 9.

vir gregis. qua itur, non quâ eundum.

When *witneſſes* ſwear home in *one* man's cauſe, but nicely or not at all in *another*, becauſe they *fear* ſome men's perſons, or *bear ill will* to, and *maligne* others, making their *love* or *hatred* a *rule* of their evidence, rather than the *obligation* of their oaths, or *ſenſe* of duty.

When an *Advocate* or *pleader* argues the cauſe of the *indigent faintly* and *coldly*, but that of the *rich* with a great deal of *zeal* and *ardour*; when the *one* is *narrowly* and *ſtrictly* examined, the *other* *ſleightly* and *perfunctorily* paſſed over: when all *dilatory* courſes are uſed to protract and delay the *one*, but all *means* made uſe of, to expedite and diſpatch the *other*.

When by *him* that paſſes ſentence, a cauſe is weighed in the balance not of *equity*, but of *favour* and *affection*; when the perſon commends the *cauſe*, not the cauſe the *perſon*, like that of *Cæſar*, *Cauſa Caſsii melior, ſed Bruto nil denegare poſſum*; ſuch a *mans* cauſe is the better, but the *other* is more my friend, ſuch a *caſe* is equitable, but another's *perſon* is more conſiderable; ſo that the *reſpect* and *reverence* which is due to *right* and *equity*, is given to the *rich* and *mighty*, and laws hereby (as *Zeleucus*, or *Anacharſis* complained of old) become like *cobwebs*, wherein the *ſmaller* flies are *caught*, but *great* ones are not *enſnared* by them; *petty* thieves wear chains of iron, but *grand* robbers chains of gold; manacles and halters *lay hold* on *leſs* tranſgreſſours, whilſt the *great* ones *break theſe bonds aſunder*; *ſmall* offenders receive ſe-

ſevere correction, whilſt the *great* ones eſcape unpuniſhed. To prevent which partiality, *and reſpect of perſons*, the *Areopagites*, the *Athenian* Judges, had their judicatures in ſome dark rooms, and paſſed their ſentence in the night, that they might not be byaſſed by prejudice or affection to thoſe upon whom they paſſed judgement, but that ſentence might be given equally upon *all*, *poor* or *rich*, *ſmall* or *great*. In purſuance of which impartiality, *Torquatus* a Roman, and *Zaleucus* a Grecian, ſpared not to ſentence even their own ſons. Favour muſt not be ſhewed by any, onely μέχρι βωμοῦ, as the *Heathen* ſpeaks, onely to the altar, ſo far as *Religion* and *piety* will admit; and by the Magiſtrate μέχρι βήματος, onely to the Judgement ſeat, ſo far as *Juſtice* (which confines affection) will give leave. *Exuat* (ſays the *Oratour*) *perſonam Judicis, qui induit amici*, which likewiſe was the apophthegme of *Pericles* an eminent Judge and Chieftain in *Athens*, that when he put on him the perſon of a *Judge*, he put off the perſon of a *friend*: the affection of a *friend* ſuits not the function of a *Judge*; hence was that renowned act of *Brutus*, who condemned his two ſons to be executed for conſpiring with *Tarquin's* Embaſſadours againſt the Common-wealth, ſacrificing their lives for the preſervation of that juſtice which was more dear unto him, ſo exactly was he obſervant of what's here prohibited, *not to reſpect perſons*.

The *laſt* prohibition is,

3. *Thou ſhalt not take a gift*. *Omnia venalia*, the com-

complaint of old, that all things are ſet to ſale, grows yet but ſlowly out of date, being ſtill too much verified amongſt us, whilſt ſcarce any *office* or *place* is to be had without *Judas* his queſtion, *what will ye give?* We have not onely of *old* had the *Pope*'s ridiculous merchandiſe, *ſale of pardons*; and of *late* the Poet's *venales manus*, ſale hands, or *mercenary ſouldiers*; and *ſtill* ſale *Churches*, by thoſe who are rather the *Plagues*, than *Patrons* thereof, ſelling their own and the people's ſouls for *Balaam*'s reward; but *venalem Juſtitiam*, ſale *juſtice*, (or rather *injuſtice* under that name) by thoſe that are δωροφαγοι, or δωροδοκοι, enhanſers of fees, bribe-eaters or ravenous devourers of gifts, who haſten to the Tribunal as *Dramoclidas* & *Stratocles* in the Hiſtorian, *tanquam ad meſſem auream*, as to a golden harveſt, hoping for ſuch *Clients* that ſhall come to them, as *Jupiter* came into *Danae*'s lap, *per impluvium* in a ſhower of gold, after which they have a conſtant thirſt continually crying out with the greedy *daughters of the Horſleech*, *give*, *give*.

Heluones patriæ, & pecuniæ.

Sicut hydropicus, Quò plus ſunt potæ, plus ſitiuntur aquæ. Non miſſura cutem, niſi plena cruoris hirudo.

This is a ſin which hath both *multitude* of *offenders* to plead for it, and the *greatneſs* of the *delinquents* to grace and countenance it; inſomuch as it is made a note of a generous and heroick mind to receive *great gifts*, and not ſtoop unto any mean or *ſordid prey*; and it's counted a badge of folly, and ſottiſh ſtupidity to be *baſhfull* in exacting bribes, when the party is *backward* in tendring of them;

few

few being of *Epaminondas* his reſolution, who (though poor, yet) refuſed great preſents ſent to him, ſaying, If the thing were good, he would do it without any bribe, becauſe good; if not honeſt, he would not do it for all the goods in the world. Of the like mind was *Phocion*, to whom an hundred talents being brought as a gift from *Alexander*, he demanded of the meſſenger, wherefore 'twas ſent to him, rather than to any other of the *Athenians*, and upon this anſwer returned, becauſe he knew him to be an honeſt and juſt man, then, ſaid he, I would entreat your maſter, that he would ſuffer me to *continue* in my honeſty and juſtice; implying, that he could not poſſibly be ſuch an one, if he ſuffered himſelf to be corrupted with rewards; which when they are entertained, the receivers of them are ſo far animated, as they will *adventure* upon any *villany*, *ſuborn* witneſſes, *diſtort* juſtice, *oppreſs* the innocent, *devour* widows and orphans, *betray* their friends, *enervate* God's laws, and the King's, *violate* equity and conſcience, and whatſoever is, or ſhould be deareſt to them.

Neque in mala cauſa neq; in bona fieri debet, de mala vix quiſquam dubitat. Qui autem bonam habet cauſam, & ſibi injuriam facit & judici, ſi munus offerat. Rivet. in Exod. c. 23.

Non hoſpes ab hoſpite tutus, non ſocer à genero, fratrum quoque gratia rara eſt, &c.

Lucrum in arca damnum in conſcientia.

— *Quid non mortalia pectora cogit*
Auri ſacra fames. ———

These and many more are the miſchiefs that are effected by the unſatiable thirſt after that, which (as the Apoſtle ſpeaks) *is the root of all evil*: all the other corruptions of *juſtice* are ſmall and inconſiderable, if compared with this. This is more *dan-*

Eò etiam ſacra illa fames nonnullos adigit, ut patriæ proditores fiant, ut Philippus Macedo non tam armis quàm auro libertatem Græciæ expugnavit. Diffidit urbium portas vir Macedo, & ſubruit æ mulos Reges muneribus: munera navium Sævos illaqueant duces. Horat. l. 3.

gerous in its enterprises, more *successfull* in its event, more *pernicious* in its practises, more *bewitching* in its allurements, more *secret* in its workings, and more *universal* in its infection, than all the other *intercepters* of justice and judgement; and therefore whereas they are mentioned with a *single* prohibition, this is urged with a *double* enforcement, for

First, *It blinds the eyes of the wise.*
Secondly, *It perverts the words of the righteous.*

Crescit peccandi libido, ubi redimendi spes datur, & facilè ad culpam itur, ubi venalis est innocentium gratia.

1. *It blinds the eyes of the wise*: A *sword* is put into the Magistrate's hand, but a *bribe* turns the *edge* thereof; though the *law* bids strike, yet a *gift* stays the hand; when the *law* should give sentence, if there be *bos in lingua*, it stops its *mouth*; so the wise son of *Sirach*, Presents and gifts blind the eyes of the wise, and stop up his mouth that he cannot reprove. *Wresting* of Judgement distorts and draws the eyes aside, and *favour* makes them pore-blind, but *gifts* quite blind, and put them out. The *Ancients* painted justice, *peplo oculis obducto*, with a veil drawn over her eyes to signifie that no partiality by *bribes*, or other means should be admitted in the administration of justice; and the *Statues* of the Judges in *Egypt* were without hands, and with their eye lids closed, against those two solœcisms, *respecting persons, and taking gifts*: so also the Judges *Oath* in *Athens* protested against *both*, with imprecation and wish of destruction to himself, and his house, if he transgressed in

Ecclus 20.29.

Ut lances in eam partem vergunt in quâ plus ponderis, ita magistratus in eam, in quâ plus æris.

Cambyses Persarum Rex Senatum unum ex Judicibus, quòd injustè

in *either*; to prevent both which was *Jethro*'s direction to *Moſes*, to chooſe out for Judges thoſe that were *men fearing God, and hating covetouſneſs*; *fearing God*, that they might not reſpect the perſons of *men*, and *hating covetouſneſs*, that they might not receive a *gift*, which as it does *blind the eyes of the wiſe*, ſo

ob pecuniam judicaſſet, interemit. & interemptio detractum corium in lora conſidit, quibus tribunal in quo dinceps ſedens judicaret, ope-

ruit, illiq; filium ejus Otanem ſedere judicem præcepit, atque in memoria habere ex quo tribunali judicaret.

The Kings of *England* alſo when they put the ſword of Juſtice into the Judges hand, ſpeak the ſame words in effect, and the Judges ſolemnly proteſt and ſwear, that they will uſe the ſame ſword indifferently between the King and the ſubject. So it was the ſaying of *Trajan* the Emperour, *Hunc tibi trado gladium, ut pro me utaris cum juſta facio, contra me verò utaris ſi injuſta facio.* And the Egyptian Kings preſented this Oath to their Judges, not to ſwerve from their conſciences though they ſhould receive a command from themſelves to the contrary.

Secondly, *It perverts the words of the righteous*, *verba innocentium*, or *juſtorum* (as ſome) *cauſas juſtas* (as others) *verba recta* פתנמין תריצין (as the *Chaldee* paraphraſe) right words, or the words of thoſe that would *ſeem* to be, or *are*, or *ſhould* be righteous.

It perverts the words of him whoſe tongue is hired to ſpeak what another pleaſes; of the *Pleader* that ſhall argue indifferently for *right* or *wrong*, as his fee emboldens him; that ſhall *palliate* and *ſmooth* over any cauſe, though he ſpeaks againſt his own and the judgement of the law, which is *venalis Advocatorum perfidia*; (as was ſometimes ſaid of the *Roman* Advocates) ſuch being like the *Oracle* of *Delphos*, whereof *Demoſthenes* complained in his time, that it did ſpeak nothing, but what

Juſtus Advocatus à nullo injuſtas cauſas accipit.

Philip

Philip would have it, who had given a double fee.

It *perverts the words of the Furours*, who often weigh out their *ſentence* proportionable to the *gift* that's received, with whom the *greateſt evidence* often times is not half ſo convincing as a *ſecret gift*; a *bribe* ſhall be more perſwaſive than all the *evidenteſt teſtimony* that can be brought; their *mouthes* will be open for him, whoſe *hand* is ſo towards them, and that cauſe ſhall be *beſt*, which brings the *beſt reward* with it; *Ibi fas eſt, ubi maxima merces.*

Loquente auro, nil pollet quævis oratio.

Laſtly, It *perverts the words* of the *witneſs*, who will *ſwear* or *forſwear* at what rate his *briber* will have him, who regards not ſo much what *Oath*, as what *gift* he hath taken, for which either *Naboth*'s blaſphemy, or *Suſannahs* adultery ſhall be atteſted, though neither the *one* was ſpoken, nor the *other* done; like *knights* of the poſt that make a jeſt and ſport of an *Oath*, a play and paſtime of a *depoſition*, that will exchange a teſtimony (which is *verborum munus* as ſome paraphraſe upon the words) with a brother of the ſame fraternity, as they uſed to do in *Greece*, δάνεισόν μοι μαρτύριον, ſwear for me to day, I'le do as much for thee to morrow.

Qui juramentum à malo viro poſtulat, inſanit.

Improborum juramentum in aquâ ſcribe.

Hodie mihi, cras tibi.

Thus they juſtifie the *wicked* for reward, and condemn the *innocent* without offence; they invert the nature and order of juſtice and equity, they make a ſinner *juſt*, and a juſt man a *ſinner*, *they take away* (as the Prophet ſpeaks) *the righteouſneſs of the righteous man from him*, not conſidering that God ſhall come in vengeance as a *ſwift witneſs* againſt them; that *fire ſhall conſume the tabernacles*

Iſa. 5. 23.

Mal 3. 5.
Job 15. 34.

of

of bribery, and that the habitations of ſuch men *ſhall be deſolate.*

And *now* ſeeing there are ſo many corruptions of *Judgement*, and ſo many hands through which *juſtice* muſt neceſſarily paſs, every one of which are ready to *receive gifts*, and thereby to *reſpect perſons*, and ſo to *wreſt Judgement* (the *latter* of which *Solomon* makes the conſequent of the *former*, *A wicked man taketh a gift out of the boſom to pervert the ways of Judgement*) it is no wonder if a *good* cauſe hath not always the happineſs to ſucceed *well*, nor is *ſeconded* with an event proportionable to its *equity*. *If thou ſeeſt* (ſays the ſame *Solomon*) *the oppreſſion of the poor, and violent perverting of judgement and juſtice in a province, marvel not at the matter*; but yet as it follows there, *he that is higher than the higheſt regardeth, and there be higher than they.* Prov. 17. 23. Eccl. 5. 8.

Wherefore let all that have any hand in the adminiſtration of juſtice, conſider (as the *Pſalmiſt* ſpeaks) that *God ſtandeth in the Congregation of the mighty*, and that *he judgeth among the Gods*; let them bear in mind that great account they muſt e're long make unto him, and remember that a day is coming, wherein *all* (both ſmall and great) *muſt appear before the Judgement ſeat of Chriſt*, and *with what judgement they* here *judge others*, themſelves muſt then *be judged, and with what meaſure* they *mete* to others, *it ſhall* then *be meaſured* to them *again.* Pſal. 82. 1. Μέμνησο τῆς θεῆς, καὶ ἐκ ἁμαρτήσεις ποτέ. Epiſt. ad Heron. ſub nom. Ignat. 2 Cor. 5. 10. Mat. 7. 2.

And if the conſideration of that *future Judgement* will not deter men from acting injuſtice, the im-

immediate addreſs, next under *God*, muſt be to your *Lordſhip*'s wiſdom, and integrity, to regulate and over-rule, and by *preſent judgement* to correct and puniſh ſuch offenders, that ſo the obſtacles of juſtice being removed, *Judgement may run down as waters, and righteouſneſs as a mighty ſtream*; that the *jaws of the wicked* (as *Job* ſpeaks) being broken, and the *ſpoil plucked out of their teeth*; *the ear that hears* you, *may bleſs* you, *and the eye that ſees* you *may give witneſs to* you. I ſhall end all with *Moſes* s charge to the Judges; *Hear the cauſes between your Brethren, and judge righteouſly between every man and his brother, and the ſtranger that is with him*, you *ſhall not reſpect perſons in judgment but* you *ſhall hear the ſmall, as well as the great*, you *ſhall not be afraid of the face of man, for the judgement is God's*; or with that charge of famous *Jehoſhaphat*, as parallel to the text, *Take heed what* you *do, for* you *judge not for man, but for the Lord, who is with you in the judgement. Wherefore let the fear of the Lord be upon you, take heed, and do it, for there is no iniquity with the Lord our God, nor reſpect of perſons, nor taking of gifts.*

Job 29. 17.

Chap. 1. 16.

2 Chr. 19. 6, 7.

FINIS.